

STAR LAKE RAILROAD CO.
v.
AREA DIRECTOR, NAVAJO AREA OFFICE, BUREAU OF INDIAN AFFAIRS
AND NAVAJO TRIBE OF INDIANS

IBIA 86-42-A (Reconsideration)

Decided August 19, 1987

Petition for reconsideration of Star Lake Railroad Co. v. Navajo Area Director, 15 IBIA 220, 94 I.D. 353 (1987).

Petition denied.

1. Board of Indian Appeals: Generally--Rules of Practice: Appeals:
Reconsideration

A petition for reconsideration based on arguments already considered by the Board of Indian Appeals in its initial decision does not demonstrate extraordinary circumstances warranting reconsideration under 43 CFR 4.315.

APPEARANCES: Jerome C. Muys, Esq., Washington, D.C., and Jeffrey T. Williams, Esq., Chicago, Illinois, for appellant; Paul E. Frye, Esq., Albuquerque, New Mexico, for the Navajo Tribe.

OPINION BY ACTING CHIEF ADMINISTRATIVE JUDGE VOGT

The Board of Indian Appeals (Board) issued a decision in this case on July 10, 1987. 15 IBIA 220, 94 I.D. 353 (1987). On August 7, 1987, the Board received a petition for reconsideration from appellant, seeking reconsideration of the July 10 decision insofar as it denied appellant's request for an evidentiary hearing. On August 13, 1987, the Board received a response from the Navajo Tribe.

Reconsideration of Board decisions is governed by 43 CFR 4.315, which provides in relevant part: "Reconsideration of a decision of the Board will be granted only in extraordinary circumstances."

[1] In its petition for reconsideration, appellant makes essentially the same arguments in support of its request for an evidentiary hearing that it made in the initial appeal. The Board has already considered these arguments. Disagreement with the Board's legal conclusions does not constitute the type of extraordinary circumstances contemplated by 43 CFR 4.315. E.g.,

Estate of Richard Lip, 15 IBIA 201 (1987); Patencio v. Deputy Assistant Secretary--Indian Affairs (Operations), 14 IBIA 120 (1986); Metzger v. Acting Deputy Assistant Secretary--Indian Affairs (Operations), 13 IBIA 366 (1985); Hawley Lake Homeowners' Association v. Deputy Assistant Secretary--Indian Affairs (Operations), 13 IBIA 335 (1985); Benally v. Navajo Area Director, 10 IBIA 70 (1982).

Therefore, pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 CFR 4.1, appellant's petition for reconsideration is denied.

Anita Vogt
Acting Chief Administrative Judge

I concur:

Kathryn A. Lynn
Administrative Judge